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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,174	12/21/2005	Georg Achterkamp	F7709(V)	1317

201 7590 11/13/2008
UNILEVER PATENT GROUP
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EXAMINER

MEHTA, HONG T

ART UNIT	PAPER NUMBER
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4152

MAIL DATE	DELIVERY MODE
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11/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,174	Applicant(s) ACHTERKAMP ET AL.	
	Examiner HONG MEHTA	Art Unit 4152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>June 7, 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-8 and 10-13 rejected under 35 U.S.C. 102(b) as being anticipated by Carment et al. (US 5,895,675 A).

3. Regards to claim 1, Carment teaches a process of preparing a powdered bouillon product, soups and sauces (col. 1, lines 5-7) by mixing granules of one fraction with a second fraction (col. 2, lines 9-14) and compressing the mixed granules into a tablet form (col. 2, line 22). Carment discloses that the tablet may have different colors with flavoring agents, colouring agents, spices and herbs combinations (col. 4, lines 48-49-51)

4. Regards to claim 2, Carment teaches prior mixing of first and second fractions, fraction one is preparing granules of powdery and/or crystalline ingredients (col. 3, lines 54-56).

5. Regards to claim 3, Carment teaches that fraction two is powder or crystal (col. 5, lines 60-61).

6. Regards to claim 4, Carment teaches fraction two is made into granules prior to mixing and combine fraction one and two (col. 3, lines 59-60).

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7. Regards to claim 5, Carment teaches granules are prepared by granulation, agglomeration and pelletisation (col. 3, lines 63-67, col. 4, lines 1-6).
8. Regards to claim 7 and 8, Carment teaches fraction one is fat based granule (col. 5, lines 44-51) and fraction two is fat based powder mix, fat based granule and water-based granule (col. 5, lines 59-61). Examiner notes that flavorants, has water based granule.
9. Regards to claim 10, Carment discloses the process may contain "glue" maltodextrin (col. 5, lines 9-10).
10. Regards to claim 11 and 12, Carment teaches tablet form with at least 4 grams wt. (col. 5, lines 66-67) and fraction one and two with different colour appearance (col. 58-61).
11. Regards to claim 13, Carment teaches the use of the instant bouillon product, sauces, and soups (col. 5, lines 38-40).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carment et al. (US 5,895,675 A).

16. Regards to claim 6, Carment discloses a 72% wt. of the powdery mixture, granules (col. 5, line 58) mixture with particles size less than about 20 μm (col. 5, line 55). Carment does not teach the exact same proportions as the recited in the instant claims.

17. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the percentage and particles size for the intended application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boersh*, 617 F.2d 272,205 USPQ 215 (CCPA 1980).

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18. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carment et al. (US 5,895,675 A) in farther in view of Tamagni et al. (6,099,888 A)

19. Carment discloses the claimed inventions 1, as discussed above

20. Regards to claim 9, Carment does not appear to explicitly disclose the the granules of both fractions have a moisture content of 2-8%. However, Tamagni teaches a moisture content of ingredients 4-35% (Abstract) and water content 0.25-6% by weight (col. 3, lines 15-16). Carment and Tamagni are analogous art because they are form the same field of bouillon seasoning cube. At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teaching of Carment and Tamani before him or her, to modify the moisture content of Carment to include Tarmani because reduce mold growth to due high water activity in self stable product. The motivation for doing so would have been to keep product with quality (col.3, line 20).

21. Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the percentage and moisture/water content for the intended application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boersh*, 617 F.2d 272,205 USPQ 215 (CCPA 1980).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HONG MEHTA whose telephone number is (571)270-7093. The examiner can normally be reached on Monday thru Thursday, from 7:30 am to 5:00 pm EST..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Del Sole can be reached on 571-271-1130. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Joseph S. Del Sole/
Supervisory Patent Examiner, Art Unit 4152